

# Notice of Allowability

Application No.

09/501,328

Examiner

Rodney P. Swartz, Ph.D.

Applicant(s)

MACKLIN ET AL.

Art Unit

1645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10 January 2005.
2. ☒ The allowed claim(s) is/are 7,8,10,11,13-16,18,19,21-23,25-30,32,33,35-42,44,45,47 and 48.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 11-11-20-01.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____   |

### **DETAILED ACTION**

1. This is a remailing of the original Notice of Allowance, dated 5 July 2005. For an unknown reason, applicants' never received the original Notice of allowance. The date of allowance is considered 5 July 2005.
2. Applicants' Response to Final Office Action, received 10 January 2005, is acknowledged. Claims 1-6, 24, and 49-55 have been cancelled. Claims 7, 15, 25, and 37 have been amended.
3. Claims 7, 8, 10, 11, 13-16, 18, 19, 21-23, 25-30, 32, 33, 35-42, 44, 45, 47, and 48 are pending and under consideration.

### **Rejections Withdrawn/Moot**

4. The rejection of claim 24 under 35 U.S.C. 103(a) as being unpatentable over Lowrie et al (*Vaccine*, 15(8):834-838, 1997) is moot in light of the cancellation of the claim.
5. The objection to claim 24 for dependency from a rejected claim is moot in light of the cancellation of the claim.
6. The rejection of claims 7, 8, 10, 11, 13, 14, 16, 18, 19, 21-23, 25-30, 32, 33, 35-42, 44, 45, and 47-48 under 35 U.S.C. 103(a) as being unpatentable over Lowrie et al (*Vaccine*, 15(8):834-838, 1997) is withdrawn in light of the amendments to the claims.
7. The rejection of claims 23, 25-30, 32, 33, 37-42, 44, and 45 under 35 U.S.C. 103(a) as being unpatentable over Lowrie et al (*Vaccine*, 15(8):834-838, 1997) in view of Sanford et al (U.S. Pat. No. 5,100,792) is withdrawn in light of the amendments to the claims.
8. The objection to claims 13, 14, 22, 35, and 36 is withdrawn in light of the amendments to the claims.

### **Conclusion**


Art Unit: 1645

9. Claims 7, 8, 10, 11, 13-16, 18, 19, 21-23, 25-30, 32, 33, 35-42, 44, 45, 47, and 48 are allowed.
10. The application having been allowed, formal drawings are required in response to this Office action including changes required by the Notice of Draftperson's patent Drawing Review, PTO-948, attached to Office Action, 20November2001, paper#11.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RODNEY P SWARTZ, PH.D  
PRIMARY EXAMINER  
Art Unit 1645

October 19, 2005